EEO MODULE 2:

HOW DOES THE ON-LINE TRAINING PROGRAM WORK?

- **This PowerPoint presentation training covers recent guidance on reasonable accommodation and includes examples of accommodation and a quick review at the end. It will take about 30 minutes to complete.**

- **Once in PowerPoint, click on "View" and "Slide Show" and turn your sound card on, if available.**

- **You may exit (escape key) the training at any point and log in at a later time, paging down to where you left off. You can use your Page key (Up or Down) to move forward or backward in the program to view either the next slide or previous slides.**

- **To document that you have completed this training, at the end of the training you will need to so notify both your supervisor and the person in your activity who is responsible for sending electronic records of completed training to the Human Resources Service Center, Pacific, Code 30.**

Modifying Work Sites
Accessible Facilities
Restructuring Jobs
REASONABLE
ACCOMMODATION
Modifying
Work
Schedules
Assistive
Devices
Flexible Leave Schedules

REASONABLE ACCOMMODATION

- Training Objective
- Laws
- Guidance
- Resources

TRAINING OBJECTIVE

- **To provide supervisors and employees with a better understanding of Equal Employment Opportunity Commission guidance on how to facilitate and grant requests of reasonable accommodation to qualified employees and applicants with disabilities.**

REHABILITATION ACT OF 1973

- **Rehabilitation Act requires Federal agencies to provide reasonable accommodation to qualified employees and applicants with disabilities, unless to do so would cause undue hardship.**

THE 1992 REHABILITATION ACT AMENDMENT

"(g) The standards used to determine whether this section (I.e., 501) has been violated in a complaint alleging non-affirmative action employment discrimination under this section shall be the standards applied under Title I (the employment provisions) of the Americans with Disabilities Act of 1990."

DEFINITIONS

- A **qualified disabled individual** is someone who (1) satisfies the requisite skill, experience, education and other job related requirements of the position and (2) can perform the essential functions with or without accommodation.

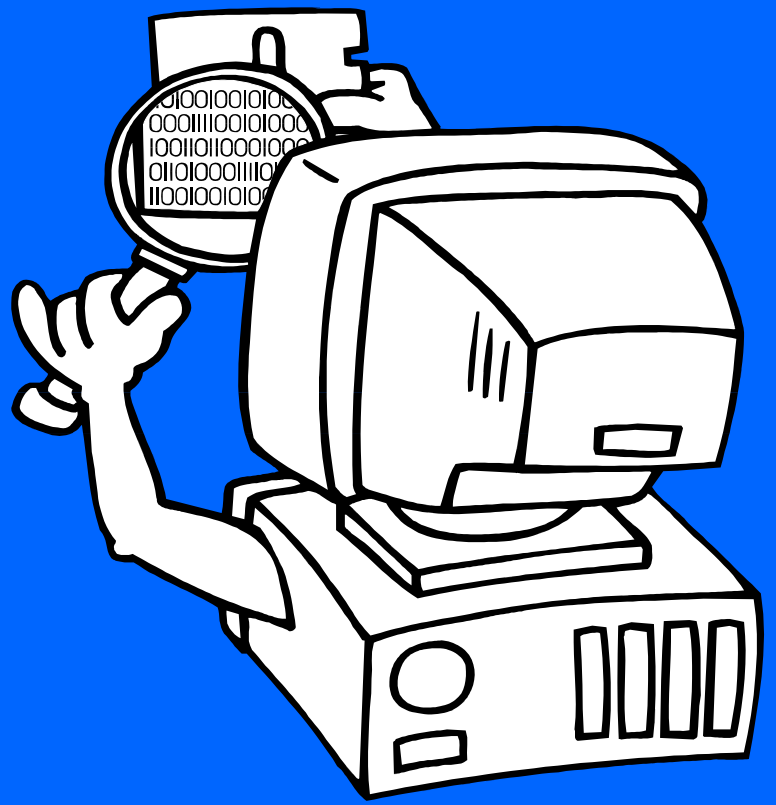
- An **accommodation** is a change in the work environment

  or in the way things are customarily done that would enable an individual with a disability to enjoy equal employment opportunities.

DEFINITIONS (CONTINUED)

- **Undue hardship means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. An employer must assess on a case-by-case basis whether a particular reasonable accommodation would cause undue hardship.**

REASONABLE ACCOMMODATION



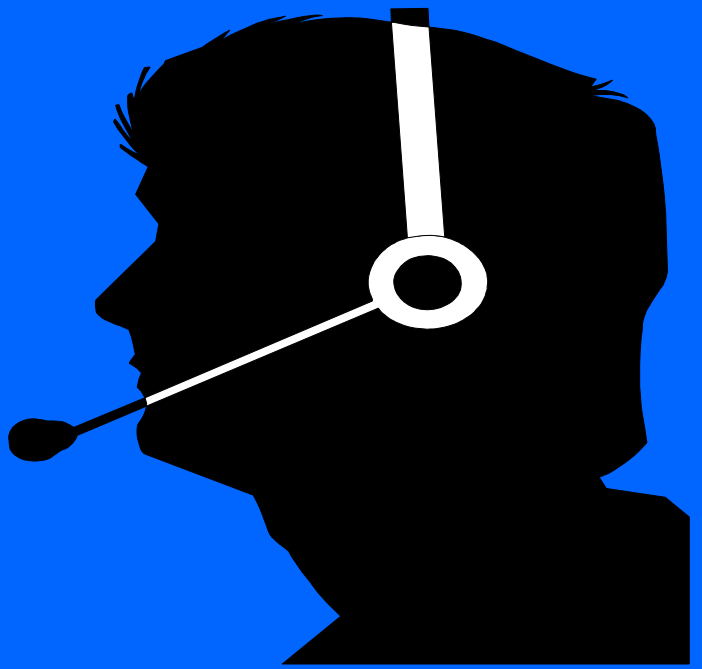
CATEGORY 1:

- **Modification or adjustment to the job application process. Example: An application instruction in Braille or large print.**

REASONABLE ACCOMMODATION

CATEGORY 2:

- **Modification or adjustment to allow a qualified individual with a disability to perform the essential functions of the job.**



REASONABLE ACCOMMODATION

CATEGORY 3:

- **Modifications and adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment.**

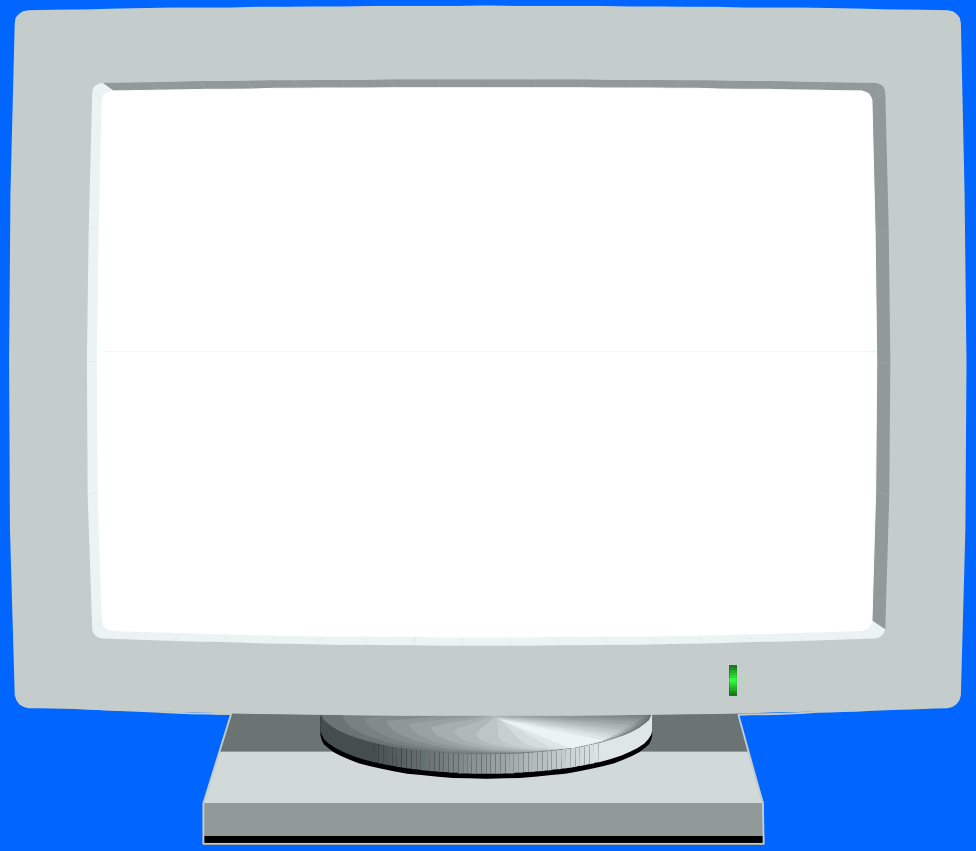
WHAT IS AN ESSENTIAL FUNCTION?

- Position exists specifically to perform the function.

- If assigned to them, a limited number of other employees are available to perform it, OR
- The function is specialized and the person was hired based on his/her ability to perform it.

REASONABLE ACCOMMODATION
Example # 1

- **Edna is a Systems Accountant hired to develop a new cost accounting subsystem. Her expertise is in financial systems design. She requires a larger than normal computer monitor to accommodate her visual impairment.**



REASONABLE ACCOMMODATION

- **Remember, the purpose of reasonable accommodation is to EXPAND opportunities for people with disabilities and NOT**

  to create new requirements to perform the job.

THE ACCOMMODATION REQUEST

- **The accommodation request is a statement that an individual needs an adjustment or change at work or in the application process for a reason related to a medical condition.**
- **Request may be written or oral.**
- **Request may require additional medical documentation unless the disabling condition is obvious or has been previously documented.**

THE ACCOMMODATION REQUEST
(CONTINUED)

- **If the request covers a continuing condition, the initial documentation may be all that is needed.**
- **Should generally be provided to the supervisor.**
- **May be made by a family member or health care provider for the individual.**
- **Should be made in advance when condition is known -- but may be made at any time.**

PROCESSING THE ACCOMMODATION REQUEST

- **Be flexible -- one size doesn't fit all cases.**
- **Use methods that put the fewest burdens on employee or applicant.**
- **Discuss the request with the individual to see what options are open.**

REASONABLE ACCOMMODATION
Example # 2

Ken has a circulation problem that often requires him to use a walker or cane. The men's restroom on his floor will be closed for repairs for six months. He asks to have an office, temporarily, on a floor with a working men's room.

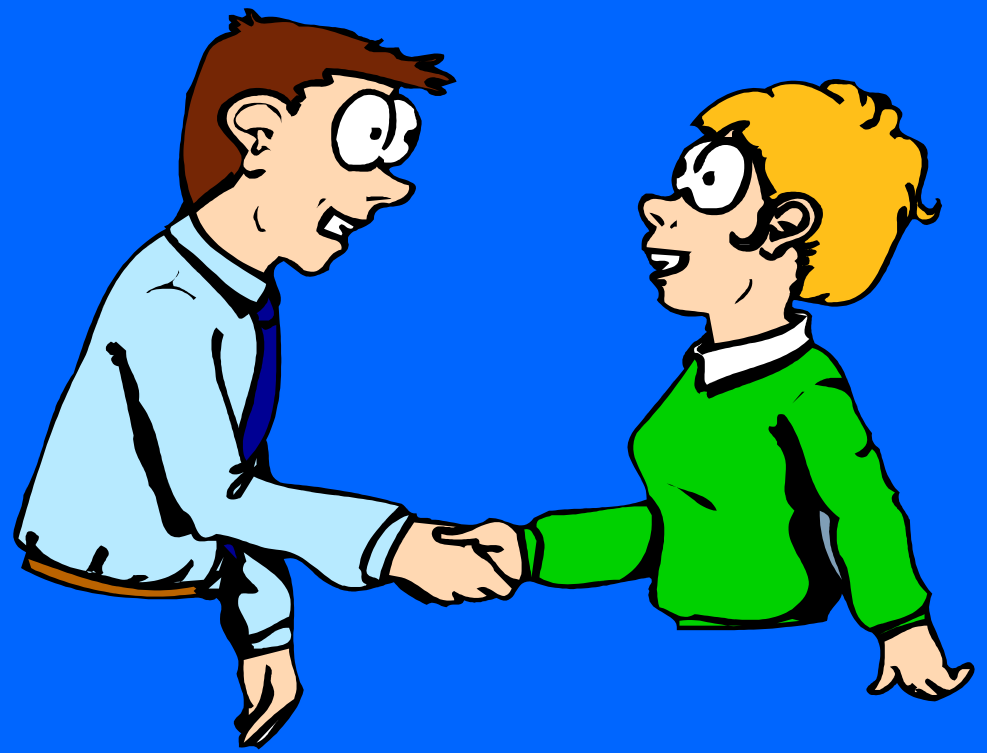
- **Ken's request may be oral or in writing.**
- **It is tied to a medical condition.**
- **The medical condition is obvious and should require no additional documentation.**

NOTE: The supervisor may ask Ken to make the request in writing for record keeping purposes.

PROCESSING THE ACCOMMODATION REQUEST (CONTINUED)

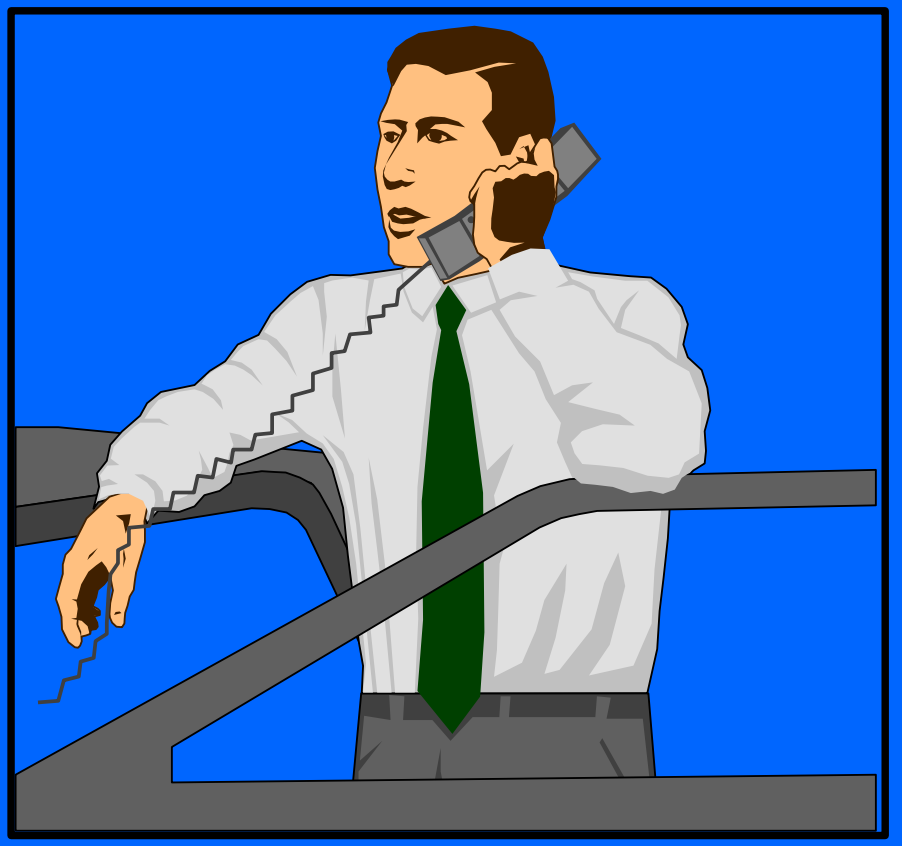
- **Purchase of equipment requires approval and may take time -- tell this to individual and keep him/her informed of progress.**

- **Provide answers to request as soon as feasible -- usually within 15 days.**



PROCESSING THE ACCOMMODATION REQUEST (CONTINUED)

- **Consult an outside agency that specializes in accommodation assistance if you need help.**
- **If the accommodation requires additional funding, check with your comptroller.**
- **When a permanent accommodation will take time, use a temporary one in the interim.**



REASONABLE ACCOMMODATION
Example # 3

Lynn's department prohibits employees from eating or drinking at their work stations. Lynn has insulin dependent diabetes. She asks her supervisor to permit her to eat a candy bar or drink fruit juice at her desk if necessary to avoid going into insulin shock.

- **Request should be granted once medical documentation is provided or immediately if the condition is already documented.**
- **Supervisor should discuss with Lynn that the accommodation is being made, when necessary, and she should attempt to comply with the prohibition when feasible.**

REASONABLE ACCOMMODATION
Example # 4

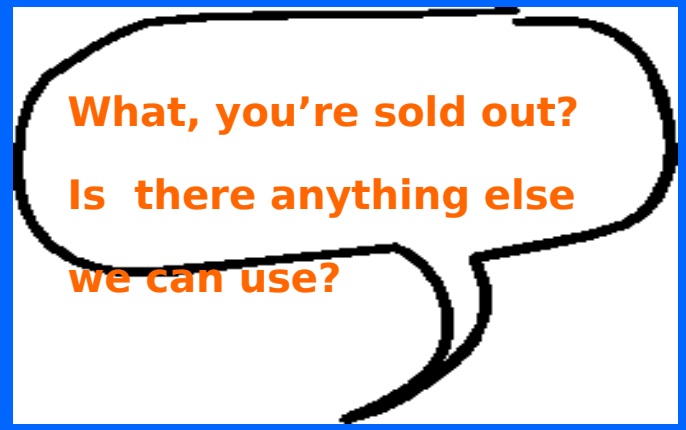
Mark complains of back pain when he works at his work station for extended periods of time. He also claims that the pressure of deadlines causes him stress which results in his not being able to sleep. When this occurs, he has problems arriving at work on time in the morning.

CAREFUL HERE!

- **You need medical documentation to determine if the conditions are actual disabilities.**
- **You may allow Mark to take brief breaks to stretch his back.**
- **Until the medical documentation is provided, continue to monitor and address work deadlines and tardiness. You may want to temporarily consider some adjustment in Mark's work schedule.**

EXTENUATING CIRCUMSTANCES

- **Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of a request.**
  - **Back-orders on equipment**
  - **Vendor has gone out of business**
- **Keep the employee informed of status and consider temporary or interim measures.**



MEDICAL INFORMATION

- **A supervisor has the right to request medical documentation when the medical condition is not obvious.**
- **The Medical Information must explain the nature of the disability. The supervisor may ask for supplemental information.**
- **The employee has the right to expect the information will be kept confidential.**
- **Employee may believe that information sought is too sensitive to share with supervisor -- Contact HRO advisor for advice.**

WHAT TYPE OF MEDICAL INFORMATION CAN YOU ASK FOR?

- Nature, severity and duration of the impairment.
- Activity or activities that the impairment limits.
- Extent to which the impairment limits the individual's ability to perform an activity or activities.

- Why the individual requires reasonable accommodation or particular accommodations requested and some indication that the accommodation will assist the individual.
- May request only information relating to the particular impairment

AND NOT THE ENTIRE MEDICAL RECORD OF THE PERSON.

REASONABLE ACCOMMODATION
Example # 5

Richard has a severe learning disability. Richard's job requires that he attend numerous meetings and remember the details of what is discussed. Richard asks to be provided with a laptop computer or to have the meetings taped for him. Richard is reluctant to request reasonable accommodation for his disability because he also tested positive for HIV and does not want this disclosed.

- Richard only needs to provide information relating to his learning disability and his requested accommodation.
- The information on HIV should not be provided.
- If Richard is concerned about unintentional disclosure, he may request that a designated 3rd party review the information and decide what to disclose the supervisor.

NOTE: The agency designates the 3rd party.

DISPUTED OR INSUFFICIENT DOCUMENTATION

- **The employer must receive sufficient documentation of the disability to support accommodation.**

- **The employer's medical expert may review what is provided.**

- **If additional information is still needed:**

  - The agency medical expert may ask the employee to sign a limited release of his or her medical records.

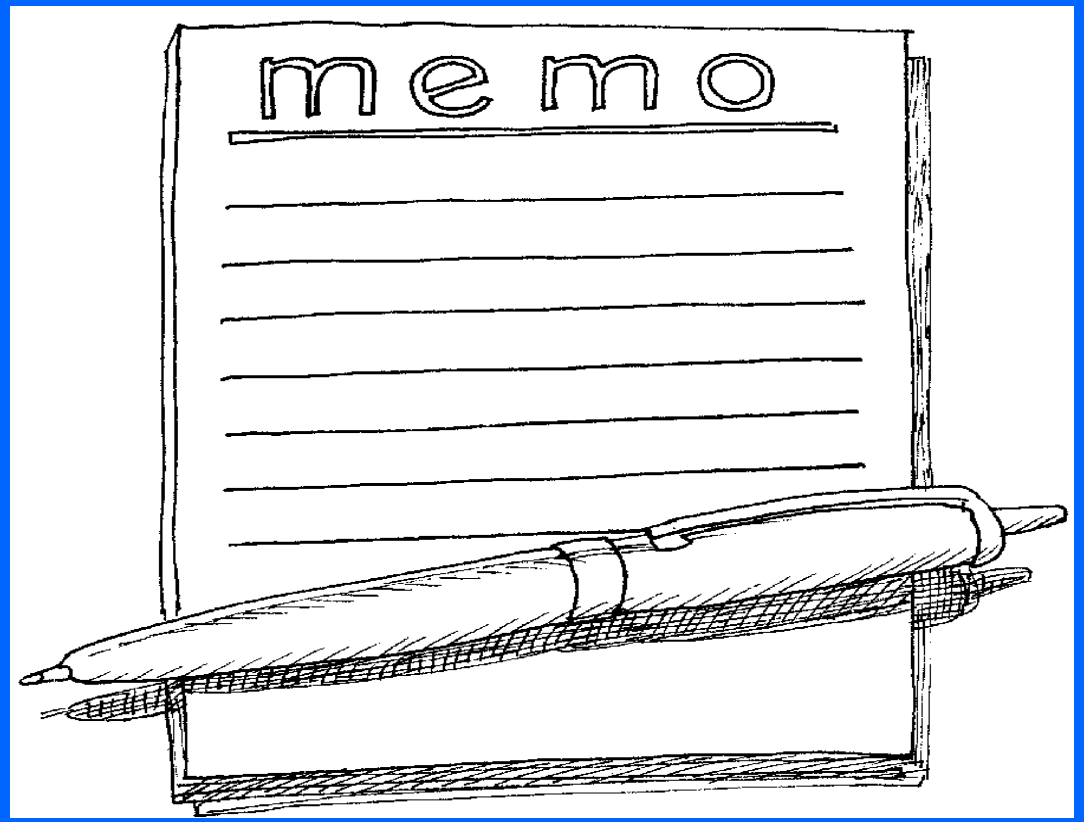
  - The employer can submit a list of specific questions to the employee's health care professional.

- **If after following the previous guidelines, the documentation is still in dispute, the employer may ask the individual to be examined by the employer's selected health care provider.**

REQUEST FOR REASSIGNMENT

- **Reassignment is a “last resort” accommodation.**
- **Must be considered when an employee cannot perform the essential functions of the position.**
- **Reassignment may be made ONLY to a vacant position.**
- **The employee MUST BE QUALIFIED for the new position.**

DENYING A REQUEST



DENIALS MUST:

- **Be in writing, written in plain language.**
- **State the reasons for the denial with as much specificity as possible.**
- **State the name of the person who made the decision.**
- **Inform the individual that he or she may seek informal dispute resolution or file an EEO complaint.**

REASONABLE ACCOMMODATION
Example # 6

Jacob is a Medical Technologist who has been under medical treatment for depression. His mental health provider has returned him to duty part-time as long as he does not have to work with detailed, procedural material or work under pressure. Jacob requests to be moved to a vacant Labor Relations position.

- **The Medical Technology field requires detailed and procedural work.**
- **Jacob probably does not meet the qualifications requirements for a Labor Relations position.**
- **The Labor Relations position requires one to work under pressure.**
- **Denial must be in writing.**

WHAT WOULD YOU DO?

1. John is a Management Analyst in a regional office of the Navy Public Works Center. John must travel to the various field offices for inspections and assist visits. Although he has no problem flying, he has found that from time to time he becomes dizzy and has severe ringing in his ears for several hours after certain flights. He recovers after several hours of rest. John's physician documents that the cause is a problem in his inner ear. John requests that he be allowed to fly to these visits the day before any meeting is to be held just in case he becomes ill.

Comments: John's condition may not be a recognized disability. But the accommodation is so small that it should be granted. If the dizziness and ringing gets worse, further documentation may be needed.

WHAT WOULD YOU DO?
(CONTINUED)

2. Jacob is a driver who has recently been diagnosed as having diabetes. His doctor assures you that Jacob's condition is treatable by proper control of diet and daily treatment with insulin. His driving record is excellent. The state in which your facility is located has recently passed regulations which denies a commercial driver's license to anyone who is insulin-dependent. Jacob asks for reasonable accommodation for his disability.

Comments: You are not in a position to grant Jacob authority to operate a government vehicle within the state. So that part of his request must be denied. You could consider Jacob for another position which does not require a Commercial Drivers License as a reasonable accommodation. This should be discussed with Jacob. The denial of his request must be made in writing.

WHAT WOULD YOU DO?
(CONTINUED)

3. Harriet has been late for work on an average of three days a week for the past two months. You have counseled her about tardiness and she says that she has tried, but she has a medical problem. You mention to her that if the medical problem is disabling that you would be willing to consider a request for reasonable accommodation or excused absence under the Family and Medical Leave Act. She provides you with a one sentence note from her doctor which says she is under stress. When you inform Harriet that this is not sufficient, she informs you that she has other problems but does not feel comfortable in sharing them with you.

Comments: Continue to document her absence and work closely with your HRO if disciplinary action becomes necessary. Inform Harriet in writing that the documentation she has provided is insufficient and reiterate what information you need. Inform her that because she feels uncomfortable providing you with the medical documentation, she should provide it to the

QUICK REVIEW

- **Reasonable Accommodation is intended to remove barriers to employment and hiring.**
- **The person must have a disability and provide appropriate documentation when requested.**
- **Must relate to an essential function of a work position.**
- **Requests may be made orally or in writing AND need only be made once if the condition is continuous.**
- **Requests may be made by the employee or employee's family, friends, physician, etc.**

QUICK REVIEW
(CONTINUED)

- **Supervisors must talk with the employee to identify options; consult with experts if needed.**
- **Provide accommodation as soon as feasible. If there are delays, keep the employee informed.**
- **Medical documentation is confidential and should be treated as such.**
- **Work with the employee if documentation is incomplete or insufficient.**
- **All denials must be done in writing.**

SOME FINAL COMMENTS

- **Reasonable Accommodation is an area of human resources management and EEO that is very dynamic.**
- **Take all requests for accommodation seriously and act on them quickly.**
- **Contact your HRO and EEO Advisors for help.**

RESOURCES

- **U.S. Equal Employment Opportunity Commission (Voice: 1-800-669-4000) (TTY: 1-800-669-6820) http://www.eeoc.gov**
- **Job Accommodation Network (JAN) (Voice/TTY: 1-800-526-7234) http://janweb.icdi.wvu.edu**
- **ADA Disability and Business Technical Assistance Centers (DBTAC's) (Voice/TTY: 1-800-949-4232)**
- **Department of Defense Computer/Electronic Accommodations Program (Voice: 703-681-8813; TTY: 703-681-0881) http://www.tricare.osd.mil/cap**

THANK YOU FOR YOUR PARTICIPATION